IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 25TH OCTOBER 2006 / 3RD KARTHIKA 1928

OP.No. 14823 of 2000(M)

PETITIONER:

JOSE CHACKO,
AMBALATHINGAL,
THRIPUNITHURA,
NOW RESIDING AT ARANGATH CROSS ROAD,
PULLEPPADY, ERNAKULAM.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. **STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM.**

2. **THE DISTRICT COLLECTOR, ERNAKULAM.**

3. **THE TAHSILDAR, KANAYANNUR TALUK, ERNAKULAM.**

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.14823/2000

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PATTAYAM DATED 19.12.09

EXHIBIT P2: TRUE COPY OF THE NOTICE NO.L5.25708/99 DATED 12.10.99 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER, DATED 04.01.2000

EXHIBIT P3(a): TRUE COPY OF THE APPLICATION FOR RENEWAL OF LEASE DATED 04.01.2000

EXHIBIT P4: TRUE COPY OF THE NOTICE NO.L1.9872/99 DATED 27.04.2000

EXHIBIT P5; TRUE COPY OF THE ORDER NO.L9-2520/99 DATED 20.1.2000 PASSED BY THE 2ND RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE REVENUE RECEIPT ISSUED TO THE PETITIONER FOR PAYEMNT OF THE GROUND RENT.

EXHIBIT P7: TRUE COPY OF THE JUDGMENT IN S.A. NO.1217/94 DATED 09.1.1978 OF THIS HON'BLE COURT.

//TRUE COPY//

P.S.T O JUDGE

OP NO.14823/20000

ORDER IN C.M.P.NO.24043 OF 2000 IN O.P.NO.14823 OF 2000

DISMISSED.

25.10.2006 **SD/-**
P.R.RAMAN, JUDGE

//TRUE COPY//

P.S. TO JUDGE

P.R. RAMAN, J.

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O.P. NO. 14823/2000

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DATED THIS, THE 25TH DAY OF OCTOBER, 2006.

J U D G M E N T

Petitioner was granted pattayam as per Ext.P1 dated 19.12.09 by the then Diwan Peshkar of erstwhile Cochin State, subject to certain conditions. He was paying ground rent accordingly but he did not apply for renewal as per the conditions stipulated in G.O.(MS) 227/97/RD/1.4.97. By Ext.P4 dated 27.4.2000 the Tahsildar fixed the lease rent or ground rent at the rate of Rs. 12,05,344/- per year from 1.4.1997 up to 31.1.2000 totalling to a sum of Rs. 44,93,880/-. In para 2 of Ext.P4, it is stated as follows:

> "The market value of the aforesaid land has been fixed by the District Collector for the 1st 3 years commencing from 1.4.97 as Rs. 12,05,344/- (Rupees Twelve Lakhs Five Thousand Three Hundred and forty four only) as per the letter read as 3rd paper above."

The market value of the land is fixed as ground rent every year which is arbitrary and illegal. Ext.P4 is not sought to be justified by filing any counter. When Rs. 12,05,344/- itself represents the value of the land,

to claim the very same amount by way of rent is nothing but a misappropriation of the property rightly granted to the petitioner. In the circumstances, Ext.P4 is quashed. It is open to the authorities to proceed to demand any reasonable rent from the petitioner after affording an opportunity of being heard to him.

Incidentally, petitioner contended that he has already become the absolute owner of the property and placed reliance on the judgment Ext.P7 judgment rendered in S.A. 1217/1974. Necessarily, if the petitioner has any such contention, he can approach the civil court for necessary relief in this regard.

The original petition is allowed as above.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.

O.P. NO. 14823/2000

J U D G M E N T

25.10.2006.